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**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, D.C. 20554**

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| In the Matter of | ) | |
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| Implementation of the Pay Telephone Reclassification and Compensations Provisions of the Telecommunications Act of 1996 | ) | CC Docket No. 96-128 |
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## COMMENTS OF TELEPORT COMMUNICATIONS GROUP INC.

Teleport Communications Group Inc. ("TCG") responds to the Public Notice requesting comments on payphone issues following the D.C. Circuit's partial remand of the Payphone Orders issued in the above-referenced proceeding.[1] TCG supports the Commission's conclusion that the default rate for interim per call compensation of 800 and access code calls should be linked to the deregulated local per call rate of $0.35.

## I. INTRODUCTION

The Commission correctly determined that the interim per call compensation for 800 and access code calls should be the same as the deregulated local coin rate. This determination is clearly supportable based on factual analysis and public policy, such that there is no need to de-link the per call compensation rate based on different payphone payment methods.

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1. "Pleading Cycle Established for Comment on Remand Issues in the Payphone Proceeding," Public Notice, CC Docket No. 96-128, DA 97-1673 (rel. August 5, 1997).

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The Commission had a rational basis for setting the interim per call compensation rate for 800 and access code calls at the same level as the deregulated local coin rate. Virtually all of the costs of coin-calls and 800/dial-around calls are inseparable. Any difference between the per call costs of these two classes of calls (i.e, 800/access code calls and coin calls) is de minimis, if not offset entirely by opportunity costs associated with 800 and access code calls. In addition, public policy favors the encouragement of multipayment options such that all calls should be compensated at the deregulated local coin rate. Coin-operated payphones provide multipayment options, and payphone service providers ("PSPs") should not be discouraged from providing this capability due to undercompensation of 800 and access code calls made from coin-operated phones. Therefore, ample support exists to support the Commission's original finding that the per call compensation rate for dial-around calls should be set at the same level as the deregulated local coin rate.

## II. THE D.C. CIRCUIT DECISION DOES NOT PRECLUDE A FINDING THAT THE RATE SHOULD REMAIN AT $ 0.35

As an initial matter, the D.C. Circuit Court did not vacate the Commission's interim per call compensation rate for 800 and access code calls. Instead, the Court found that the Commission had not offered sufficient justification for its conclusion that the deregulated coin rates would be a suitable surrogate for determining the costs of providing payphones.[2] The Court also found that the FCC had not addressed record evidence that, if accepted on its face, tended to show that the costs of 800 and access code calls would be less than coin calls.[3]

Even if this record evidence regarding per call cost differentiations is presumed to be true, this does not mean an adjustment in per call compensation is required. The relevant statutory provision requires that a per call compensation plan be instituted

> to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone . . .[4]

Under this statutory mandate, there is no requirement that the per call compensation be based solely on costs. In fact, the Commission determined that a market rate would best meet the statutory requirement.[5] TCG contends that the de minimis difference between the cost of 800/access code calls and coin calls (if it exists) does not justify a separate per call compensation rate that differs from the deregulated local coin rate, especially in light of the inseparability of the basic cost of the calls and the public interest in favor of encouraging multiple payphone payment options.

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2. Illinois Public Telecommunications Assoc. v. FCC, Case No. 96-1394, slip op. at 14 (D.C. Cir. July 1, 1997).

3. Id. at 14-16. In particular, the Court stated that IXCs showed that local coin calls are higher because the payphone service provider bears the end-to-end cost of the call as well as higher equipment and collection costs.

4. 47 U.S.C. § 276(b)(1)(A) (emphasis added).

5. Payphone Report and Order at ¶¶ 48-51.

Indeed, the Court did not vacate the FCC's finding, but remanded it to the Commission for further consideration. TCG urges the Commission to consider TCG's arguments below to explain further the justification for its original conclusion that the per call compensation rate for 800/dial around calls should be linked to the deregulated local coin rate.

## III. THE UNDERLYING COSTS OF COIN-OPERATED AND 800/ACCESS CODE CALLS ARE VIRTUALLY INSEPARABLE

The underlying costs associated with providing either coin or 800/access code calls are basically identical because the fixed costs of installing a coin-operated payphone do not vary with the type of call made from that station (i.e., coin or dial-around).[6] The greatest part of the cost of placing any payphone call is the fixed cost in providing the payphone itself. These fixed costs, which apply for any coin-sent, 800, or access code call, are comprised of the cost of the pay station and enclosure, cable plant, and supporting network infrastructure.

Although there are some differences in the recurring costs between coin-sent and 800/access code calls (i.e., coin calls entail collection and additional maintenance and a carrier providing the payphone bears the cost of transporting these calls), such additional costs — particularly when divided on a per-call basis — are de minimis. Indeed, the coin-operated phones provide calling capability to customers using the 800 or dial-around option so that it is not unreasonable to set

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6. TCG contends that the cost of providing card-only payphones does not significantly differ from providing coin-operated payphones.

an interim compensation rate for these calls based on the deregulated local coin rate.

The statutorily mandated goal of fair compensation for each and every call will be accomplished only through a per call compensation rate that accounts for the fact that 800 and access code calls are placed in large part from phones that provide the coin call option as well. Many PSPs, including TCG, have made the rational business decision to provide primarily multipayment option payphones, which maximize customer payment choices.[7] Considering that the fixed costs for installing payphones are the same, regardless of whether the caller uses a coin or dial-around method, the decision to provide customers with the most payment options constitutes sound business judgment. This reasoned decision should not be compromised by an unjustified de-linking of the coin-sent and 800/access code call compensation rates.

## IV. ANY DE MINIMIS COST DIFFERENCES BETWEEN COIN AND DIAL-AROUND CALLS ARE OFFSET BY OPPORTUNITY AND ADMINISTRATIVE COSTS ATTRIBUTED TO 800 AND ACCESS CODE CALLS

800 and access code calls impose additional opportunity costs upon PSPs that overcome any potential cost differentials between 800/access code calls and coin calls. First, 800 or access code customers using coin-operated phones prevent the use of these phones by coin-paying customers. Second, per call

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7. A customer utilizing a coin-operated payphone may use coins, an 800 number, or access codes for calling cards or credit cards to place the call.

compensation for 800 and access code calls is decreased by administrative costs and delayed by billing practices, increasing the cost of such calls as compared to the more immediately compensated coin calls.

In the first instance, coin-operated payphones may be used to place 800 or access code calls, to the exclusion of a coin-paying customer. When a customer uses a coin-operated phone to place an 800 or access code call, this customer prevents a caller who would utilize the coin option from accessing the phone. Moreover, the coin-paying customer, unable to use card-only payphones, has no similar substitute. In addition, the 800 or access code caller forecloses the coin-call opportunity for a longer period of time than the average coin-call lasts.[8] Therefore, PSPs should be fairly compensated for the use of their phones, which should take into account the fact that 800/access code calls may preclude the use of a coin-operated payphone by a coin-only caller.

Second, the compensation for 800 or access code calls is subject to administrative delay and expense because compensation for these calls are generally processed by third parties (neither the PSP nor the IXC or called 800 customer) who charge the PSP a fee for processing the call. The third party gathers the call information from the appropriate carriers and the PSPs, and collects the dial-around compensation in accordance with this information from the IXCs. The third party then distributes the monies to the appropriate PSPs after

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8. Coin-calls are generally shorter than 800 or dial-around calls, which do not require additional coin deposits or operator intervention during the call.

deducting their fee for providing such services. This process results in decreased compensation to the PSP, as well as a delay in collection associated with the administration of billing and collection by the third party. By comparison, coin call payments are immediate and are received prior to call connection. Therefore, any de minimis difference between 800/access code calls and coin calls is offset by both opportunity cost and the delay and expense associated with dial-around collection services.

## V. CUSTOMERS BENEFIT FROM MULTIPLE PAYMENT OPTIONS

The FCC traditionally has recognized that the availability of communications services open to the public is in the public interest.[9] The best means of making such phones available to the widest range of users is to encourage the continued placement of payphones providing the most payment options. These are coin-operated payphones.

Multiple payment option payphones, including coin payment and the payment of charges billed to a credit account, are in the public interest. For this reason, even if there is a de minimis difference in the per-call cost of a coin call and 800/dial-around calls, all calls should be compensated based on the coin rate to demonstrate that public policy favors the continued availability of all payment options, including coinage. By adopting this per call compensation linkage, the Commission will further encourage PSPs to continue to provide multipayment

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9. See, e.g., Payphone Report and Order at ¶¶ 7-8.

payphones, because they will be guaranteed compensation to cover the fixed cost of providing these payphones.

## VI. CONCLUSION

For these reasons, TCG urges the Commission to uphold its conclusion that the deregulated local coin rate is an acceptable surrogate for interim compensation for 800 and access code calls. This position is justified by the fact that there is little, if any, difference between the per call costs of these calls and that the public interest supports the continued placement of coin-operated payphones, which will be best achieved if 800 and access code calls from these phones are compensated at the same level as coin calls.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Dottie E. Holman, do hereby certify that a copy of the foregoing Comments was sent by hand-delivery this 26th day of August, 1997, to the following:

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